

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
WESLEY GABRIEL and SHAWN SMITH, individually
and on behalf of all others similarly situated,

08 Civ. 2460

Plaintiffs,

**RELATED CASE
STATEMENT**

- against -

BRIAN FISCHER, in his capacity as Commissioner
of the New York State Department of Correctional
Services (DOCS), and in his individual capacity;
ANTHONY J. ANNUCCI, in his capacity as Deputy
Commissioner and Counsel for DOCS, and in his
individual capacity; LUCIEN J. LECLAIRE, JR., former
Acting Commissioner of DOCS, in his individual capacity;
GLENN S. GOORD, former Commissioner of DOCS,
in his individual capacity; and JOHN/JANE DOES 1-50
(DOCS Supervisory, Training, and Policy Personnel),

Defendants.
-----X

Plaintiffs Wesley Gabriel and Shawn Smith, by and through their attorneys,
Emery Celli Brinckerhoff & Abady LLP, submit this Related Case Statement pursuant to Rule
1.6(a) of the Local Rules of this Court. The instant case, as well as *Smith v. Paterson*, No. 08
Civ. 3313, currently pending before this Court, may be related to *Coleman v. Fischer*, No. 07
Civ. 7790, which is currently pending before the Hon. Shira A. Scheindlin. (See Related Case
Statement for *Coleman v. Fischer*, No. 07 Civ. 7790, attached hereto as Ex. A.) On April 25,
2008, Mr. Michael Coleman filed an Amended Complaint in *Coleman v. Fischer*, No. 07 Civ.
7790. In the Amended Complaint, Mr. Coleman, like the plaintiffs in *Gabriel v. Fischer*, No. 08
Civ. 2460, and *Smith v. Paterson*, No. 08 Civ. 3313, alleges pursuant to 42 U.S.C. § 1983 that

the Department of Correctional Services (DOCS) violated his due process rights by administratively imposing post-release supervision (PRS) and incarcerating him for alleged violations of PRS, when PRS was never part of a valid judicially imposed sentence. *See Earley v. Murray*, 451 F.3d 71 (2d Cir. 2006) (holding that administrative imposition of PRS violated clearly established Supreme Court precedent) (citing *Hill v. United States ex rel. Wampler*, 298 U.S. 460 (1936) (Cardozo, J.)).

Dated: April 30, 2008
New York, New York

EMERY CELLI BRINCKERHOFF &
ABADY LLP

By: 

Matthew D. Brinckerhoff (MB 3552)
Elora Mukherjee (EM 0921)
75 Rockefeller Plaza
New York, New York 10019
(212) 763-5000

Attorneys for Plaintiffs